

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:12-cr-132

v.

HON. JANET T. NEFF

CAESAR GARZA,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the Court is Defendant's pro se motion for modification or reduction of sentence under Guideline Amendment 782 re drug offense pursuant to 18 U.S.C. § 3582(c)(2) (ECF No. 1788), which the Court construes as a motion for reconsideration of the order (ECF No. 1656) denying his earlier motion for modification or reduction of sentence under Guideline Amendment 782 re drug offense pursuant to 18 U.S.C. § 3582(c)(2) (ECF No. 1588). This matter was originally assigned to Judge Robert Holmes Bell but was reassigned on May 17, 2017, to the undersigned pursuant to Administrative Order No. 17-CA-022. The Court did not request a response to Defendant's motion. At issue are the Memorandum Opinion and Order (ECF No. 1655), and Order (ECF No. 1656) entered March 17, 2016, denying Defendant's Amendment 782 motion for reduction of sentence.

On November 20, 2015, Defendant filed a Pro Se motion for modification or reduction of sentence under Guideline Amendment 782 re drug offense pursuant to 18 U.S.C. § 3582(c)(2) (ECF No. 1588). On December 30, 2015, the U.S. Probation Department filed a Sentence Modification Report (ECF No. 1604) recommending a sentence reduction, and counsel for the

Defendant and the Government filed responses to the Sentence Modification Report (ECF Nos. 1635 and 1653) concurring that Defendant is eligible for a sentence reduction.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

Having fully considered the Sentence Modification Report (ECF No. 1604) and responses by defense counsel and the Government (ECF Nos. 1635 and 1653), the Court has determined that the defendant is eligible for a reduction of sentence according to the policy statements of the U.S. Sentencing Commission.

Therefore, IT IS HEREBY ORDERED that the Memorandum Opinion and Order (ECF No. 1655), and Order Regarding Motion for Sentence Reduction (ECF No. 1656) are VACATED. Defendant's motion for reconsideration (ECF No. 1788) and motion for a sentence reduction (ECF No. 1588) are GRANTED, and Defendant's sentence is reduced to 106 months custody.

Dated: October 4, 2017

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge